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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/909,023	08/11/1997	TOSHIAKI KOJIMA	SONY-P7698	1127

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EXAMINER

ONUAKU, CHRISTOPHER O

ART UNIT PAPER NUMBER

2616

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

08/909,023

Applicant(s)

KOJIMA, TOSHIAKI

Examiner

Christopher O. Onuaku

Art Unit

2616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 4/05 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-32.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: (See attached).
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Response to Arguments

1. Applicant's arguments filed 4/4/05 have been fully considered but they are not persuasive.

Applicant argues that none of the cited references, Gushima et (US 5,737,481) and Baumeister (US 4,591,931) recites an input means for a user, and that there is no teaching or suggestion within the cited references that would have led one skilled in the art to combine or modify the cited references because they teach away from each other. Examiner disagrees.

As discussed in the rejections of the claims, Gushima discloses in column 31, lines 29-46, input means for designating a start point and an end point of a desired second continuous data set, where the continuous data set is a subset of the first data set to be recorded in or already recorded in the recording medium by recording means. Here the memory controller 53 of Fig.8 is shown to generate a write address into the buffer memory 4, thereby writing the coded data 15 and block identification data 58 into the buffer memory by disposing them as shown in Fig.10. When a normal recording is performed, the coded data 15 output from the codex 52 shown in Fig.9A together with the block identification data 58 is stored in a predetermined area in the buffer memory. Fig.10 shows the disposition of the data on the buffer memory. The buffer memory is divided into a number m of areas. The numeral # denotes the number of each area. A line shows a data corresponding to one block, which is stored in each area. Each block consists of the block identification data 58 and a coded data 15.

From the above, clearly Gushima et al disclose dividing stored data into identifiable blocks, wherein each block has its beginning point and ending point. To perform this function of dividing the stored data into identifiable block, an input means is used. However, Gushima et al fails to explicitly disclose an input means for a user to designate a file name corresponding to a start point and an point of the desired data set. But Baumeister teaches in col.2, lines 5-25 and col.5, line 62 to col.6, line 24, apparatus for playing back from recording media recorded information which includes both preselected segments and unpreselected segments, comprising wherein a sequence of scenes is designated as a file by an operator and a file name is designated to the file, and wherein the beginning and end of the file is clearly identified.

Modifying Gushima with Baumeister provides the desirable advantage of allowing Gushima to apply the user/operator in Baumeister to do the dividing into blocks/segments of the stored data of Gushima by using user input means, and in addition add a file name to the divided segments, as taught by Baumeister.

Furthermore, the test for obviousness is not whether the features of the reference may be bodily incorporated into the other to produce the claimed subject matter, but simply what the references make obvious to one of ordinary skill in the art. In re Bozek, 163 USPQ 545, (CCPA 1969); In re Richman, 165 USPQ 509, (CCPA 1970); In re Beckum, 169 USPQ 47 (CCPA 1971); In re Sneed, 710 F.2d 1544, 218 USPQ 386.

And, it is not necessary that references actually suggest, expressly or in so many words, the changes or improvements that applicant has made. The test for combining references is what the references as a whole would have suggested to one of ordinary

Art Unit: 2616


skill in the art. In re Sheckler, 168 USPQ 716 (CCPA 1971); In re McLaughlin ,170 USPQ 209 (CCPA 1971); In re Young, 159 USPQ 725 (CCPA 1968).

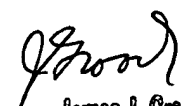
Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher O. Onuaku whose telephone number is 571-272-7379 The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody be reached on 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


COO
5/16/05.


James J. Groody
Supervisory Patent Examiner
Art Unit 262-2616